IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11267 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ISMIL IBRAHIM MANDARA

Versus

STATE OF GUJARAT

Appearance:

M/S THAKKAR ASSOC. for Petitioner

MR HH PATEL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/02/2001

ORAL JUDGEMENT

#. Challenge has been made by the petitioner to the order dated 29-8-2000 under which he was detained as a dangerous person.

#. Challenging the order of detention, learned counsel for the petitioner raised manifold contentions but as this petition deserves to be allowed only on one ground,

it is not necessary to refer, discuss and decide on all other contentions.

#. One of the contentions raised is that the copies of statements of witnesses recorded under section 161 of Cr.P.C. by the police in the criminal complaints which are made ground for detaining the petitioner have not been supplied to the petitioner and non-supply thereof results in causing prejudice to the right of the detenu of making effective representation.

#. Reply to the special civil application has not been filed by any of the respondents and the averments made in the petition stand uncontroverted and the same are to be taken to be correct. It is a case where the respondents have failed to satisfy this Court that the copies of these documents which are vital and relevant for the petitioner to make effective representation against the detention order have been supplied to the petitioner. In view of the aforesaid facts, it is a clear case where the petitioner has been denied of his right of making effective representation against the detention order as conferred upon him under Article 22(5) of the Constitution of India.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 29-8-2000 is quashed and set aside. The petitioner Ismil Ibrahim Mandara, detenu, at present in Sabarmati Central Prison, Ahmedabad be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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zgs/-